

In the United States Court of Federal Claims
OFFICE OF SPECIAL MASTERS
No. 16-382V
(Not to be published)

MARIA DEL PILAR VARELA-AVILA,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

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Filed: September 29, 2017

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Decision by Stipulation; Damages;
Tetanus-diphtheria (“TD”);
Measles-mumps-rubella (“MMR”);
Influenza (“Flu”) Vaccine;
Myelitis.

John Robert Howie, Jr., Howie Law, PC, Dallas, TX, for Petitioner.

Lara Ann Englund, U.S. Dep’t of Justice, Washington, DC, for Respondent.

DECISION AWARDING DAMAGES¹

On March 24, 2016, Petitioner Maria Del Pilar Varela-Avila filed a petition seeking compensation under the National Vaccine Injury Compensation Program (“the Vaccine Program”).² Petitioner alleges that she suffered myelitis and related complications as a result of

¹ Because this decision contains a reasoned explanation for my action in this case, I will post this decision on the United States Court of Federal Claims’ website, in accordance with the E-Government Act of 2002, Pub. L. No. 107-347, § 205, 116 Stat. 2899, 2913 (codified as amended at 44 U.S.C. § 3501 note (2006)). As provided by 42 U.S.C. § 300aa-12(d)(4)(B), however, the parties may object to the posted decision’s inclusion of certain kinds of confidential information. Specifically, under Vaccine Rule 18(b), each party has 14 days within which to request redaction “of any information furnished by that party: (1) that is a trade secret or commercial or financial in substance and is privileged or confidential; or (2) that includes medical files or similar files, the disclosure of which would constitute a clearly unwarranted invasion of privacy.” Vaccine Rule 18(b). Otherwise, the whole decision will be available to the public. (*Id.*)

² The National Vaccine Injury Compensation Program is set forth in Part 2 of the National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755, codified as amended, 42 U.S.C.A. § 300aa-10-§ 300aa-34 (West 1991 & Supp. 2002). All citations in this decision to individual sections of the Vaccine Act are to 42 U.S.C.A. § 300aa.

receiving the tetanus-diphtheria (“TD”), measles-mumps-rubella (“MMR”), or influenza (“flu”) vaccines.

Respondent denies that Petitioner’s myelitis and any related medical problems were caused by the receipt of the TD, MMR, or flu vaccines. Nonetheless both parties, while maintaining their above-stated positions, agreed in a stipulation filed September 12, 2017 that the issues before them can be settled and that a decision should be entered awarding Petitioner compensation.

I have reviewed the file, and based upon that review, I conclude that the parties’ stipulation is reasonable. I therefore adopt it as my decision in awarding damages on the terms set forth therein.

The stipulation awards:

- a. A lump sum of \$165,874.62 in the form of a check payable to Petitioner; and
- b. A lump sum of \$99,429.41 in the form of a check payable jointly to Petitioner and Parkland Health and Hospital System, 8435 Stemmons Freeway, Suite 340, Dallas, Texas 75247.

Stipulation ¶ 8.

I approve a Vaccine Program award in the requested amount set forth above to be made to Petitioner. In the absence of a motion for review filed pursuant to RCFC Appendix B, the clerk of the court is directed to enter judgment herewith.³

IT IS SO ORDERED.

/s/ Brian H. Corcoran
Brian H. Corcoran
Special Master

³ Pursuant to Vaccine Rule 11(a), the parties may expedite entry of judgment by jointly filing notice renouncing their right to seek review.